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NORTHERN DISTRICT OF CALIFORNIA

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PVT

BROADCAST MUSIC, INC.; WARNER-
TAMERLANE PUBLISHING CORP.;
ELEKSYLUM MUSIC, INC.; NO
SURRENDER MUSIC, a division of
PRAXIS INTERNATIONAL
COMMUNICATIONS, INC.; SONY/ATV
SONGS LLC d/b/a SONY/ATV ACUFF
ROSE MUSIC; COBURN MUSIC, INC.;
EMI VIRGIN SONGS, INC. d/b/a EMI
LONGITUDE MUSIC; SONGS OF
UNIVERSAL, INC.; GEORGIAN HILLS
MUSIC; LION AIRE PUBLISHING;
YOUNG MONEY PUBLISHING, INC.,

Case No.

CV

10

2173

**COMPLAINT FOR
COPYRIGHT INFRINGEMENT**

Plaintiffs,

v.

DON ANTHONYS, LLC d/b/a PLANET
MONTEREY a/k/a ULTRA LOUNGE and
RESTAURANT a/k/a PLANET GEMINI and
ANTHONY LANE, individually,

Defendants.

Plaintiffs, by their attorneys, for their Complaint against Defendants, allege
as follows (on knowledge as to Plaintiffs; otherwise on information and belief):

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the United States

1 Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 *et seq.* (the "Copyright
2 Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338 (a).

3 2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section
4 1400 (a).

5 THE PARTIES

6 3. Plaintiff, Broadcast Music, Inc. ("BMI"), is a corporation organized
7 and existing under the laws of the State of New York. BMI's principal place of
8 business is 7 World Trade Center, 250 Greenwich Street, New York, New York
9 10007-0030. BMI has been granted the right to license the public performance
10 rights in approximately 6.5 million copyrighted musical compositions (the "BMI
11 repertoire"), including those which are alleged herein to have been infringed.

12 4. The other Plaintiffs are the owners of the copyrights in the musical
13 compositions which are the subject of this lawsuit. All Plaintiffs are joined
14 pursuant to Fed. R. Civ. P. 17(a) and 19(a).

15 5. Plaintiff Warner-Tamerlane Publishing Corp. is a corporation. This
16 Plaintiff is the copyright owner of at least one of the songs in this matter.

17 6. Plaintiff Eleksylum Music, Inc. is a corporation. This Plaintiff is the
18 copyright owner of at least one of the songs in this matter.

19 7. Plaintiff No Surrender Music is a division of Praxis International
20 Communications, Inc., a corporation. This Plaintiff is the copyright owner of at
21 least one of the songs in this matter.

22 8. Plaintiff Sony/ATV Songs LLC is a limited liability company d/b/a
23 Sony/ATV Acuff Rose Music. This Plaintiff is the copyright owner of at least one
24 of the songs in this matter.

25 9. Plaintiff Coburn Music, Inc. is a corporation. This Plaintiff is the
26 copyright owner of at least one of the songs in this matter.

1 10. Plaintiff EMI Virgin Songs, Inc. is a corporation d/b/a EMI Longitude
2 Music. This Plaintiff is the copyright owner of at least one of the songs in this
3 matter.

4 11. Plaintiff Songs of Universal, Inc. is a corporation. This Plaintiff is the
5 copyright owner of at least one of the songs in this matter.

6 12. Plaintiff Gary Stefan Harrision is an individual d/b/a Georgian Hills
7 Music. This Plaintiff is the copyright owner of at least one of the songs in this
8 matter.

9 13. Plaintiff Kevin Winston Rudolf is an individual d/b/a Lion Aire
10 Publishing. This Plaintiff is the copyright owner of at least one of the songs in this
11 matter.

12 14. Plaintiff Young Money Publishing, Inc. is a corporation. This Plaintiff
13 is the copyright owner of at least one of the songs in this matter.

14 15. Defendant Don Anthonys, LLC. is a limited liability company
15 organized and existing under the laws of the state of California, which operates,
16 maintains and controls an establishment known as Planet Monterey a/k/a Ultra
17 Lounge and Restaurant a/k/a Planet Gemini, located at 2110 Fremont Street,
18 Monterey, California 93940, in this district (the "Establishment").

19 16. In connection with the operation of this business, Defendant Don
20 Anthonys, LLC. publicly performs musical compositions and/or causes musical
21 compositions to be publicly performed.

22 17. Defendant Don Anthonys, LLC. has a direct financial interest in the
23 Establishment.

24 18. Defendant Anthony Lane is a member of Defendant Anthonys, LLC
25 with primary responsibility for the operation and management of that limited
26 liability company and the Establishment.

27 19. Defendant Anthony Lane has the right and ability to supervise the
28 activities of Defendant Don Anthonys, LLC. and a direct financial interest in that

1 corporation and the Establishment.

2 **CLAIMS OF COPYRIGHT INFRINGEMENT**

3 20. Plaintiffs repeat and reallege each of the allegations contained in
4 paragraphs 1 through 21.

5 21. Plaintiffs allege four (4) claims of willful copyright infringement,
6 based upon Defendants' unauthorized public performance of musical compositions
7 from the BMI repertoire. All of the claims for copyright infringement joined in this
8 Complaint are governed by the same legal rules and involve similar facts. Joinder
9 of these claims will promote the convenient administration of justice and will avoid
10 a multiplicity of separate, similar actions against Defendants.

11 22. Annexed as the Schedule and incorporated herein is a list identifying
12 some of the many musical compositions whose copyrights were infringed by
13 Defendants. The Schedule contains information on the four (4) claims of copyright
14 infringement at issue in this action. Each numbered claim has the following eight
15 lines of information : Line 1 providing the claim number; Line 2 listing the title of
16 the musical composition related to that claim; Line 3 identifying the writer(s) of the
17 musical composition; Line 4 identifying the publisher(s) of the musical composition
18 and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the
19 date on which the copyright registration was issued for the musical composition;
20 Line 6 indicating the Registration number(s); Line 7 showing the date(s) of
21 infringement; and Line 8 identifying the Establishment where the infringement
22 occurred.

23 23. Each of the musical compositions identified on the Schedule, Line 2,
24 were created by the persons named on Line 3 (all references to Lines are lines on
25 the Schedule).

26 24. On or about the dates indicated on Line 5, the publishers named on
27 Line 4 (including any predecessors in interest) complied in all respects with the
28 requirements of the Copyright Act and received from the Register of Copyrights

1 Certificates of Registration bearing the numbers listed on Line 6.

2 25. On the dates listed on Line 7, Plaintiff BMI was and still is the licensor
3 of the public performance rights in the musical compositions identified on Line 2.
4 On the dates listed on Line 7, the Plaintiffs listed on Line 4 were and still are the
5 owners of the copyright in the respective musical composition listed on Line 2.

6 26. On the dates listed on Line 7, Defendants performed and/or caused the
7 musical compositions identified on Line 2 to be publicly performed at Planet
8 Monterey a/k/a Ultra Lounge and Restaurant a/k/a Planet Gemini without a license
9 or permission to do so. Thus, Defendants have committed copyright infringement.

10 27. The specific acts of copyright infringement alleged, as well as
11 Defendants' entire course of conduct, have caused and are causing Plaintiffs great
12 and incalculable damage. By continuing to provide unauthorized public
13 performances of works in the BMI repertoire at Planet Monterey a/k/a Ultra Lounge
14 and Restaurant a/k/a Planet Gemini, Defendants threaten to continue committing
15 copyright infringement. Unless this Court restrains Defendants from committing
16 further acts of copyright infringement, Plaintiffs will suffer irreparable injury for
17 which they have no adequate remedy at law.

18 WHEREFORE, Plaintiffs pray that:

19 (I) Defendants, their agents, servants, employees, and all persons acting
20 under their permission and authority, be enjoined and restrained from infringing, in
21 any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17
22 U.S.C. Section 502;

23 (II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C.
24 Section 504(c);

25 (III) Defendants be ordered to pay costs, including reasonable attorneys'
26 fees, pursuant to 17 U.S.C. Section 505; and
27
28

Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	Keep Your Hands To Yourself
Line 3	Writer(s)	Dan Baird
Line 4	Publisher Plaintiff(s)	Warner-Tamerlane Publishing Corp.; Eleksylum Music, Inc.; No Surrender Music, a division of Praxis International Communications, Inc.
Line 5	Date(s) of Registration	10/15/86
Line 6	Registration No(s).	PA 304-742
Line 7	Date(s) of Infringement	7/23/09
Line 8	Place of Infringement	Planet Gemini

Line 1	Claim No.	2
Line 2	Musical Composition	Watermelon Crawl
Line 3	Writer(s)	Buddy Brock; Zack Turner
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC d/b/a Sony/ATV Acuff Rose Music; Coburn Music, Inc.
Line 5	Date(s) of Registration	1/11/93
Line 6	Registration No(s).	PA 596-931
Line 7	Date(s) of Infringement	7/23/09
Line 8	Place of Infringement	Planet Gemini

Line 1	Claim No.	3
Line 2	Musical Composition	Strawberry Wine
Line 3	Writer(s)	Matraca Berg; Gary Harrison
Line 4	Publisher Plaintiff(s)	EMI Virgin Songs, Inc. d/b/a EMI Longitude Music; Songs of Universal, Inc.; Gary Stefan Harrison, an individual d/b/a Georgian Hills Music
Line 5	Date(s) of Registration	11/21/96
Line 6	Registration No(s).	PA 840-407
Line 7	Date(s) of Infringement	7/23/09
Line 8	Place of Infringement	Planet Gemini

Line 1	Claim No.	4
Line 2	Musical Composition	Let It Rock
Line 3	Writer(s)	Kevin Rudolf; Dwayne Carter
Line 4	Publisher Plaintiff(s)	Warner-Tamerlane Publishing Corp.; Kevin Winston Rudolf, an individual d/b/a Lion Aire Publishing; Young Money Publishing, Inc.
Line 5	Date(s) of Registration	2/18/09
Line 6	Registration No(s).	PA 1-624-274
Line 7	Date(s) of Infringement	7/23/09
Line 8	Place of Infringement	Planet Gemini
